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10/700,829	11/03/2003	Kenneth E. Feuerman	07844-612001	6257

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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte KENNETH E. FEUERMAN

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Appeal 2009-005373
Application 10/700,829[1]
Technology Center 2100

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Decided: September 29, 2009

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Before JAMES D. THOMAS, JOHN A. JEFFERY, and JAY P. LUCAS,
Administrative Patent Judges.

LUCAS, *Administrative Patent Judge.*

DECISION ON APPEAL

_____

[1] Application filed November 3, 2003. The real party in interest is Adobe
Systems.

STATEMENT OF THE CASE

Appellant appeals from a final rejection of claims 1, 11, 12, 22, 24, 34, 35, 45, and 47-52 under authority of 35 U.S.C. § 134(a). The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b). Claims 2-10, 23, 25-33, and 46 are cancelled. Claims 13-21 and 36-44 are withdrawn.

Appellant's invention relates to a speech-recognition technique for generating and processing "self-describing forms" (Spec. 1, ll. 3-6). In the words of Appellant:

> [A]n audio-based form can consist of audio signals recording a
> voice speaking a field name followed by a pause, during which
> a form user is expected to enter the appropriate user data by
> speaking (e.g., stating their name). The pattern of speaking a
> field name followed by a pause is continued until each field
> name has been presented to the user, and the user has been
> given an opportunity to enter corresponding user data. Audio
> signals including the voice speaking the form data and the
> user's voice speaking the user data together comprise a
> completed form.

(Spec. 11, ll. 4-10).

Claim 1 is exemplary:

> 1.   A computer-implemented method for generating an
> audio-based form represented electronically as a digital audio
> file, the audio-based form including one or more data fields, the
> method comprising:
>
>   defining zoning information identifying a temporal
> location and temporal dimensions of the one or more data fields
> of the audio-based form;

defining structural information including a name for each
of the one or more data fields and a description of a type of user
data expected to be provided for each of the one or more data
fields, where the audio-based form comprises audio signals
recording a voice speaking a name of a data field followed by a
pause during which a user can speak the user data expected to
be provided for the data field;

encoding the zoning and structural information in one or
more audio signals; and

incorporating the one or more audio signals including the
encoded zoning and structural information into the audio-based
form.

The prior art relied upon by the Examiner in rejecting the claims on

appeal is:

| Reintjes | US 2002/0067854 A1 | Jun. 06, 2002 |
| Coifman | US 2004/0254791 A1 | Dec. 16, 2004[2] |

REJECTION

The Examiner rejects the claims as follows:

Claims 1, 11, 12, 22, 24, 34, 35, 45, and 47-52 stand rejected under

35 U.S.C. § 103(a) for being obvious over Coifman in view of Reintjes.

Claim 1 is representative. *See* 37 C.F.R. § 41.37(c)(vii). *See also In*

re McDaniel, 293 F.3d 1379, 1383 (Fed. Cir. 2002) ("If the brief fails to

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[2] We note that Coifman relies upon the priority date established by
provisional application 60/451,024, filed March 1, 2003.

meet either requirement [of 37 C.F.R. § 1.192(c)(7)], the Board is free to select a single claim from each group of claims subject to a common ground of rejection as representative of all claims in that group and to decide the appeal of that rejection based solely on the selected representative claim.").

Appellant contends that the claimed subject matter is not rendered obvious by Coifman in combination with Reintjes because the Coifman reference does not disclose or suggest an "audio-based form," as claimed (App. Br. 7, bottom). The Examiner contends that each of the claims is properly rejected (Ans. 29, top).

Rather than repeat the arguments of Appellant or the Examiner, we make reference to the Briefs and the Answer for their respective details. Only those arguments actually made by Appellant have been considered in this opinion. Arguments that Appellant could have made but chose not to make in the Briefs have not been considered and are deemed to be waived.

We reverse.

ISSUE

The issue is whether Appellant has shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 103(a). The issue turns on whether Appellant's claimed "audio-based form" is disclosed in Coifman.

FINDINGS OF FACT

The record supports the following findings of fact (FF) by a preponderance of the evidence.

Disclosure

1. Appellant has invented a method and system for creating audio-based forms that can consist of audio signals (Spec. 2, ll. 18-19 and 11, l. 4). A recorded voice indicates to a user the part of the form to be completed, followed by a pause in the recording for the user to speak to complete the form field. (*See* Spec. 11, ll. 4-10.) The recorded voice and the user voice are digitized in a digital audio file called an "audio-based form." (*See* claim 1 and Spec. 11, ll. 8-10.)

Reintjes

2. The Reintjes reference discloses filling out a form using an electronic pen. (*See* ¶ [0018].) Data fields filled out at the top of the form are completed before (in a temporal sense) data fields at the bottom of the form. (*See* ¶¶ [0026], [0036], and [0037].)

Coifman

3. The Coifman reference discloses filling out an electronic form (*e.g.*, for a medical patient) using speech recognition software. (*See* ¶¶ [0013] and [0033].) Speech recognition software digitizes incoming analog speech and then produces text strings. (*See* ¶ [0027].) Moreover, Coifman discloses form fields 315, 318, 328 that hold data in the form of text string values. (*See* ¶¶ [0031] and [0032].)

PRINCIPLE OF LAW

Appellant has the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of prima facie obviousness or by rebutting the prima facie case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

ANALYSIS

The Examiner's rejection is presented on pages 3 to 16 of the Examiner's Answer. In opposition, Appellant presents a number of arguments.

Argument with respect to the rejection
of claims 1, 11, 12, 22, 24, 34, 35, 45, and 47 to 52
under 35 U.S.C. § 103(a)

The first argument, which addresses whether Coifman discloses Appellant's claimed "audio-based form," is dispositive (App. Br. 7, bottom to 8, top).

Appellant argues: "Coifman does not disclose such an audio-based form [as recited in claim 1]. By contrast, Coifman contemplates using computers (see Figure 1) to complete the computerized electronic form (*i.e.*, a visually observable form, such as shown in Figure 3)." (*Id.*).

In reply, the Examiner finds that Coifman discloses Appellant's claimed "audio-based form including one or more data fields" in Figs. 2 and 3 and at paragraphs [0029] and [0030] on page 4 of Coifman. (*See* Ans. 3,

bottom). The Examiner equates Coifman's disclosure that "vocal input may be used to provide inputs to text fields within a particular form, field or web page" in paragraph [0029] (*id.*). In addition, the Examiner finds that Appellant's "one or more data fields" reads on a Coifman's "text field within a particular form." (*Id.*).

We disagree with the Examiner. We closely examined the Briefs, the Examiner's Answer, the cited portion of Coifman, and indeed the entire reference. We find that Coifman does not disclose the claimed "audio-based form" for the following reasons. We find that Coifman discloses filling out an electronic form (*e.g.*, for a medical patient) using speech recognition software. (*See* ¶¶ [0013] and [0033].) We find that Coifman's speech recognition software takes incoming analog speech and converts the speech into text strings. (*See* FF#3.)

Coifman's data is stored in the form of text string values, whereas the claimed invention recites an "audio-based form." (*See* FF#1 and FF#3.) The Specification states that the claimed "audio-based form" is a recording that can consist of digital audio signals (FF #1). This is evident in exemplary claim 1, which recites "the audio-based form comprises audio signals," "encoding the zoning and structural information in one or more audio signals," and "incorporating the one or more audio signals." Since Coifman does not disclose saving "audio signals," instead storing arrays of text (*i.e.*, text string values) (FF#3), we find convincing Appellant's argument that Coifman does not disclose the claimed "audio-based form," as recited in exemplary claim 1. Accordingly, we find error in the Examiner's analysis. Since claims 11, 12, 22, 24, 34, 35, 45, and 47-52 also recite an "audio-based form," as in exemplary claim 1, we find error regarding the

Examiner's analysis of each of these claims. Coifman simply does not provide the evidentiary record necessary to support the Examiner's rejection.

Since the issue of whether the Coifman reference discloses Appellant's claimed "audio-based form" is dispositive, we do not address the merits of Appellant's other arguments.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that the Examiner erred in rejecting claims 1, 11, 22, 24, 34, 35, 45, and 47-52.

DECISION

The Examiner's rejection of claims 1, 11, 22, 24, 34, 35, 45, and 47-52 is reversed.

REVERSED

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